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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION – LOS ANGELES

ALEXANDER BROWN and ARIK SILVA, individually and on behalf of all others similarly situated, Plaintiffs, v. ABERCROMBIE & FITCH CO., ABERCROMBIE & FITCH STORES, INC., and DOES 1-50, inclusive, Defendants.	Case No.: 2:14-cv-01242-JGB-VBK **DECLARATION OF NAMED PLAINTIFF ALEXANDER BROWN IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION** **Date: February 9, 2015** **Time: 9:00 AM** **Courtroom: 1** **Honorable Jesus G. Bernal**

DECLARATION OF ALEXANDER BROWN
IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, Alexander Brown, declare:

1. I am over eighteen years of age. The information contained in this declaration is based on my personal knowledge. If called as a witness, I could and would competently testify to the following matters.

2. I am one of the named Plaintiffs in this action and am providing this supplemental declaration in support of Plaintiffs' Motion for Class Certification.

3. I had my deposition taken on November 10, 2014, in this action. I received a copy of the transcript for my deposition, dated November 10, 2014, from my attorney's office, Aiman-Smith & Marcy. True and correct copies of the deposition testimony excerpts referenced herein are attached hereto as Exhibit A.

4. I understand my responsibilities as a named plaintiff in this class action case and the importance of standing up for all the workers who were affected by the same employment practices.

5. When I agreed to be a class representative in this case, I understood that I was going to be named in a lawsuit against Abercrombie & Fitch Co. and Abercrombie & Fitch Stores, Inc. ("Abercrombie") and that the case was about Abercrombie not providing adequate rest breaks, compelling employees (including me) to purchase clothing as a condition of working there, and for other violations of California law.

6. When I agreed to be a class representative in this case, I also understood that the case was trying to get money for other workers who worked for Abercrombie and that my claims against Abercrombie were similar to the claims of the other workers.

7. When I agreed to be a class representative in this case, my attorneys provided me with a document called "Duties of a Named Representative." I read the form and I understood that I had a responsibility to all of the workers who could be part of the case.

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/ / /

8. I believe that my claims against Abercrombie are typical of the claims of other class members against Abercrombie, because I and other persons employed by Abercrombie worked in similar jobs, were subjected to the same and/or similar Abercrombie policies, were entitled to legally compliant rest breaks, were entitled to be paid minimum wages, were entitled to have our uniform clothing paid for by Abercrombie, and were entitled to other benefits, but did not receive them.

9. As a class representative, I understand that I am a "fiduciary litigant." I understand that this means that I must consider the interests of the class as if they were my own interests and that I cannot put my own interests before those of the class as a whole.

10. I know of no conflicts that I have with any class member in this case.

11. From the time I decided to be a Named Representative in this case and until now, I have wanted to represent and help the other Abercrombie workers who were subject to the same policies and practices that are claimed in this lawsuit.

12. I have always been available to help my attorneys in this case. Most of our communication is through telephone calls and email since I have been in school or living in Southern California. I have also had multiple in-person meetings with my attorneys to go over the facts of the case.

13. I made a diligent search for all documents I had regarding this case and provided those to my attorneys. I also responded to all questions asked of me in discovery sent by Abercrombie.

14. I have made sure to keep updated on what is going on in the case and to help my attorneys with whatever they have needed. I have been, and continue to be, committed to this case for all of the workers who are part of this class action, not just myself.

15. I understand the importance in being a voice for all of the workers in the class and I have done my best to uphold this responsibility by communicating with my attorneys and helping them in any way they have needed in the case. I will continue to uphold my responsibilities to the class as a named representative if this case is certified, including continue to work with class counsel and to prepare for trial.

16. Further, whenever my attorneys had general questions about workplace practices at Abercrombie, I always answered them promptly.

17. I was hired as a Model (sales associate) for Abercrombie and worked at four locations, including: Hollister, in Milpitas, California, from October 2011 to November 2011, approximately; Hollister, in Newark, California, from November 2011 through December 2011; Hollister, in Los Angeles, California, from January through March or April 2012; and Abercrombie & Fitch, in Santa Monica, California, from April 2012 to November 2013.

18. I was paid minimum wage throughout my employment.

19. I recall the rest break policy being applied in the same manner throughout my employment at each of the stores where I worked. My understanding of Abercrombie's rest break policy as it was applied during my employment was that 10-minute rest breaks were not provided if you worked less than 4 hours or more than 5 hours.

20. It was my understanding and experience, throughout my employment, that to comply with Abercrombie's Look Policy, employees (including myself) had to wear Abercrombie clothing.

21. During my deposition, I talked extensively about the unlawful rest break policies applied at Abercrombie. For example, *see* Exhibit A, with relevant testimony highlighted below.

> "Q. Did you ever receive two rest breaks in a given shift?
> A. Only during my last few weeks of working, once I realized that Abercrombie was, in fact, breaking the law when it came to rest breaks. And I told the managers about it. And against their protest, I took the break anyway." P. 72:11-73:13.
>
> "A. …I did not get a rest break above 4-hour shifts." P. 80:22-81:4.
>
> "Q. Can you recall a shift greater than 4 hours where you asked for a rest break and were told no?
> A. Yes." P. 81:23-25.
>
> "Q. Okay. Tell me what happened on those occasions.
> A. I went to a manager. I would point them to the law on the corkboard, and I would say, 'This is, you know,

> I should be able to take my break, I should be able to take a 10-minute paid rest break.'
> And they would say, 'Well, that's not our policy.'..."
> P. 83:17-84:7; *see also,* P. 93:11-94:17.
>
> "A. We would get the 10-minute rest break for 4-hour shifts. However, if they were 5 hours or longer, we would only receive the 30-minute meal period." P. 99:3-20.
>
> "Q. ... Can you tell me if, when you saw this federal or state labor law printout, any Abercrombie manager ever indicated that that printout was Abercrombie policy?
> A. No, they did not.
> Q. Okay. Can you tell me whether that printout purported to be Abercrombie policy?
> A. No, it did not.
> Q. Okay. Can you tell me whether a manager ever specifically denied that that was Abercrombie policy?
> A. Yes.
> Q. ... Can you tell me whether, during the course of your employment at Abercrombie, you ever witnessed another store employee take a 10-minute rest break during a shift that lasted 5 hours or more?
> A. No.
> Q. Okay. You can't tell me or you never saw it?
> A. Oh, I never saw that.
> Q. Have you ever heard of such a thing?
> A. No, I haven't." P. 277:1-22; see also, P. 286:17-287:9.

22. During my deposition, I also talked extensively about the pressure exerted by Abercrombie on employees (including myself) to purchase and wear Abercrombie clothes. For example, see Exhibit A, with relevant testimony highlighted below.

> "Q. In terms of beginning your employment with the company, what's the next thing your remember in terms of the process? You told me you interviewed, got a call back, said yes. Do you remember anything else?
> A. I remember that we had some sort of photo shoot for the store." P.23:23-24:4.
>
> "A. ...he [store manager, Bert Quinn] fired me because I hadn't purchased ... AAA clothing for that season." P. 36:21-37:4.
>
> "A. ...he had removed me from the roster because I hadn't bought the AAAs for that season. ... he said that if I bought the AAAs, I could go back on the roster. In turn, I bought the AAAs." P. 39:18-40:4.

"Q. And who told you you had to wear something in the AAA?
A. Every manager that I worked for.
Q. And it's your testimony that they told you to work here you have to wear something in the AAA Style Guide? …
A. … I mean that if I did not wear those clothes, I would not be working." P. 42:5-25.

"A. … I was wearing jeans that were not from Abercrombie, and she [store manager] told me that I would either have to go home or change them." P. 47:9-48:25.

"A. … I was wearing the incorrect shoes according to the AAA policy. Uhm, and I believe it was Eni Deharo that told me I had to change into a other pair." P. 49:21-50:15.

"A. … There was another time … I was wearing AAAs from the previous season that were no longer allowed to be worn. … They told me to wear – wear clothes in compliance with the new AAAs. … I was told not to come back until I did after that shift." P. 51:18-52:24.

"Q. … So you told me earlier that it was your impression that you had to wear certain clothes, correct?
A. Yes.
Q. Okay. Now, what was it in your mind that gave you that impression?
A. The many times that we were told to buy the AAAs.
Q. Okay. You've told me about two.
A. … we were told to buy the AAAs every season.
Q. Okay. How were you told? What was – what was said or communicated to you?
A. As soon as the new AAA handbook or book would come out, they would tell us, they would say that you need these to work. And that, you know, they pushed them on us pretty heavily for the two or three weeks, whenever the transition period was." P. 55:6-22.

"A. … Well, in any, you know, month, you would see a few people sent home for not wearing certain types of clothing that were Abercrombie clothing. So, essentially, if people were coming in with different pairs of jeans or shoes or shirts, they would be sent home." P. 57:11-58:20.

"Q. Okay. Well, in your experience, are the managers in the stores the one responsible for enforcing the look policy in the store?

A. Yes.
Q. Over the course of your time with the company, did you find that managers varied in terms of how they enforced the look policy?
A. No.
Q. No? Every single person was exactly the same in your experience?
A. Yeah. They put the look policy very high on the list of priorities." P. 61:20-62:7.

"Q. ... Did you ever ask a manager whether a particular item of clothing at either any of the Hollister, Abercrombie & Fitch stores that you worked in would be consistent with the look policy?
A. Yes I did.
Q. Okay. What did you ask about?
A. When I was coming from Hollister, I was told to buy Abercrombie jeans. I asked if I could wear my Hollister jeans, and they said no." P. 104:12-20.

"Q. Is it your testimony that you would you not be permitted by your managers at Third Street Promenade to wear clothing purchased at another store, but that was similar to the Abercrombie & Fitch brand of clothing?
A. I would not be allowed to wear that.
Q. Okay. Did anybody specifically tell you that you would not be allowed to do that?
A. No verbally, but through their actions.
...
Q. ... What are you referring to?
A. ...sending other people home for various uniform violations, being essentially fired for not buying the new AAAs, and the fact that I was not allowed to wear AAAs from the season before, which would obviously, you know, fall under these guidelines very well." P. 114:4-115:13.

"Q. Sitting here today, can you tell me anything specifically that anybody said to, in your mind, encourage you to purchase something in the AAA Style Guide?
A.When the new AAAs came out, I don't know what the transition period is, length of time, but for the first few days, they have the style guide booklet. They give it to you and say, 'Oh, you know, you should look at this, find the trends you like.' And then eventually they would say, 'Yeah, you need to get your AAAs. You need to get your AAAs."
A.... If not those exactly, very close to those words." P. 120:22-121:12.

"A. That, for example, people would be sent home. I would be fired. Uhm, things generally, like, that push you in the direction of purchasing clothes.

Q. And in terms of people being sent home, sitting her today, do you know whether anybody was sent home simply because they wore something that was not in a AAA Style Guide or for some other reason that their clothing was at issue?
A. It wasn't in the AAA Style Guide." P. 122:19-123:2.

"A. I had to buy clothes every time that a AAA Style Guide came out. If it was five times a year, then it was five times a year.
Q. All right. Well, you didn't have to buy anything when the – this one came out in May of 2012, right?
A. Because I already bought the clothes. I already owned them.
Q. Okay.
A. You don't need to buy them twice, but you have to buy them once." P. 200:5-17.

"Q. Well, you told me you have to dress exactly like the models are shown?
A, We were highly encouraged to dress like this, but we could purchase these and still be able to work." P. 205:2-9.

"Q. Let's talk about clothes.
Are you able to provide any testimony from your own personal knowledge regarding clothes that females were allowed to wear to work?
A. It was just similar to the males, where it had to fit with the AAA Style Guide for that season.
Q. Okay. But do you have any personal knowledge as to how that was implemented and practiced?
A. By telling them they had to wear the AAA Style Guide clothes." P. 209:1-10.

"Q. And when you looked at this style guide, had you read it, you would have seen the language there on all of the pages throughout the guide, saving the first page, stating you were not required to purchase or wear any of the company's clothing, right?
A. On paper, that is what it says, but in practice, that's not the policy." P. 223:16-22.

"Q. At the time you purchased that item, can we agree you had numerous clothing options available to you to wear to work.
A. … yes, but they are all from Abercrombie.
Q. All right. Well, we can agree that the written policy says different on the document, right?
A. The written policy is one thing, and the –
. . . .
A. On the document, the written policy is different than what it is in reality?
Q. Okay. At your store?

A. At every store I worked at." P. 226:18-227:11.

"Q. So under your view of the world, when you were looking through this look policy document, you could wear jeans to work, right?
A. Yes, Abercrombie jeans.
Q. Sweaters?
A. Abercrombie sweaters, yes.
Q. Sweatshirts?
A. Abercrombie sweatshirts.
Q. Button-down shirts?
A. Abercrombie button-down, shirts, yes." P. 228:3-15.

"Q. So after reviewing all these style guides, just to summarize your testimony, it's your testimony from the time you started working in 2011 until April of 2013, that you were strongly encouraged to purchase items reflected in the various style guides, right?
Q. Yes?
A. Yes.
Q. All right.
A. With the consequence of not being able to work or being sent home, if not."
P. 246:5-17.

"Q. Throughout the course of your employment, nobody ever told you that you needed to wear any specific clothing item or any specific outfit, correct?
A. They told me I had to wear clothing item or clothing items from the style guide.
...
A. I was told that I had to wear Abercrombie jeans, which is a particular pair of pants, unless they weren't on the style guide. As for the shirts, I was told I had to wear a particular shirt across a range of shirts that were available in the style guide."
P. 247:23-248:20.

"A. Every season, they took photos of – where you had to wear the Abercrombie AAA clothing in a specific style, and I don't know what they did with them. They just told us they had to take photos." P. 262:5-9.

"Q. Can you tell me whether any document entered as an exhibit today, which contained language to the effect of employees are not required to buy Abercrombie clothes, comported with your experience in any store, any Abercrombie store in which you ever worked?
A. No, it did not.
...

Q. … Have you ever observed a Abercrombie employee coming to work with – in non-Abercrombie clothing and being allowed to proceed with his shift without comment from a manager?
A. No, I have not." P. 279:25-280:16.

I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on 01/10/, 2015, at 11070 strathmore drive, los angeles, California.

ALEXANDER BROWN

EXHIBIT A

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ALEXANDER BROWN and ARIK SILVA, individually and on behalf of class of similarly situated individuals,	)
Plaintiffs,	)
-vs-	) CASE NO. 2:14-CV-01242-GAF-VBK
ABERCROMBIE & FITCH CO.; ABERCROMBIE & FITCH STORES, INC., and DOES 1-50, inclusive,	)
Defendants.	)

DEPOSITION OF ALEXANDER BROWN

MONDAY, NOVEMBER 10, 2014

9:59 a.m.

REPORTED BY: ERIKA SJOQUIST, C.S.R., R.P.R., C.R.R.
C.S.R. No. 12350

accepted the job offer via telephone?
A I can't remember.
Q Okay. What's the next thing you remember in terms of becoming employed with the company?
A I remember that once I became employed, I realized that I could transfer to a store close to where I lived. 10:14:39
Q Where were you living at the time?
A I was living in Fremont, California, which is about a half an hour drive from Milpitas. 10:14:53
Q How did you come to learn that you could transfer?
A Uhm, I don't remember.
Q Somebody told you that?
A Someone must have told me that, yeah. 10:15:08
Q At some point in time, did you -- strike that.
Well, what's the next thing you remember?
A Working for Hollister.
Q Okay. At Milpitas?
A Yeah. I'm sorry. What do you mean by the question? 10:15:32
Q Fair.
In terms of beginning with your employment with the company, what's the next thing you remember in terms of the process? You told me you interviewed, got a call 10:15:41

back, said yes.
Do you remember anything else?
A I remember that we had some sort of photo shoot for the store.
Q All right. Do you remember coming in for an orientation? 10:15:54
A I do remember having an orientation, but I don't remember what happened at the orientation.
Q All right. It was at the store?
A Yes. 10:16:05
Q And that was at the Hollister Milpitas?
A Yes, I believe so.
Q Is that The Great Mall outlet?
A Yeah.
Q Do you remember going over any forms or policies during the orientation? 10:16:16
A Uhm, no, I don't remember.
Q Do you remember going over the handbook?
A I remember that they showed us the handbook, but didn't necessarily allow us to go over it. 10:16:33
Q What do you mean they didn't you allow you to go over it?
A Well, they showed it to us, that it existed, and then they put it back into the desk or drawer, wherever it was. 10:16:45

A Mabrie, yeah.
Q Okay.
A Kavon Mason.
Q All right.
A Eni Deharo. 10:29:41
Q Okay.
A Keegan... I can't remember her last name at the moment.
Q Ewing?
A Yeah, Ewing. 10:29:59
Q Okay.
A Bert Quinn.
Q All right.
A Uhm... Roisin, I think her name is, something along those lines. 10:30:12
Q Roisin Taylor?
A Roisin Taylor.
Q Anybody else?
A Uhm, I'm sure I will remember if -- if I saw them, but, no, no names jump to mind after this. 10:30:22
Q Did you have a good relationship with each of those managers you just named?
A Most of them.
Q Anybody you did not?
A I would say Bert Quinn and I. 10:30:31

Q How come?
A He, at one point, removed me from the store database. Essentially, he fired me because I hadn't purchased, uhm, AAA clothing for that season.
Q Do you remember when that happened? 10:30:52
A I don't recall the dates.
Q Do you remember if it was early on or in your employment at Third Street or later?
A He only started working there after a few months of me working there. 10:31:21
Q So you were there for a while before he started?
A Yeah, if I recall correctly.
Q Do you remember what season it was of the year?
A Uhm... it was either summer or spring. 10:31:36
Q Do you remember the year?
A Uhm... 2012 or 2013. I can't remember. Probably 2012.
Q Was there one GM at the store or more than one GM when you were working? 10:32:22
A Uhm, what do you mean by the question? Do you mean at one specific time or?
Q No. At any particular time.
A There is one GM, but they changed while I was working. 10:32:34

Q Less than 20?
A I'm not sure. Probably more than 20.
Q Okay. Less than 30?
A I couldn't tell you. Probably less than 30.
Q Okay. So somewhere between 20 and 30, you think? 10:33:30
A Yeah.
Q Did you get along well with Natalia McCrory, store manager?
A I don't remember. 10:33:43
Q You told me Roisin Taylor that you got along with?
A Yeah.
Q Is that a man or woman?
A It's a woman. 10:33:49
Q And Ryan Marcy?
A Ryan Marcy, yeah, we got a long well.
Q Okay. Well, tell me everything that you can remember around this situation with Bert Quinn.
A Uhm, I remember that I hadn't worked for a few weeks. And when I came back into the store, I asked if I could get my schedule, and he said he had removed me from the roster because I hadn't bought the AAAs for that season. 10:34:09
Q Anything else you can remember? 10:34:26

A Not about that situation.
Q What did you do in response?
A Uhm, he said that if I bought the AAAs, I could go back on the roster. In turn, I bought the AAAs.
Q When you say "AAAs," what are you referring to? 10:34:51
A I'm referring to the uniform that Abercrombie requires their workers to wear.
Q Let's be crystal clear right now. There's nothing that you've ever seen, no document, anything, that talks about the word "uniform," correct? 10:35:11
MR. JAMES: Objection. Well -- strike that. Go ahead.
BY MR. GARCIA:
Q Correct?
A Uhm... perhaps not on paper, but in reality, it was a uniform. 10:35:19
Q The answer to my question is correct, right?
A Perhaps not on paper, but in reality, there was a uniform.
Q See, "perhaps not on paper" leads me to believe that you are holding back. So I want to know, sitting here today, are you able to identify a single document in anywhere that you've seen throughout your entire employment that says "uniform"? 10:35:37
A I could not tell you for 100 percent either yes 10:35:49

A I don't recall.
Q What particular pants?
A They were usually just navy jeans in skinny fit.
Q Is this AAA pictured anywhere? 10:38:02
A Yes.
Q Where?
A In the AAA handbook. I'm not exactly -- exactly what the name of it is.
Q So your testimony is -- your sworn testimony is that in the AAA handbook, there's a singular uniform you have to wear? 10:38:19
A There is a choice of four or five at that particular time when I was working. I don't know what it is today. 10:38:35
Q And who told you you had to wear something in the AAA?
A Every manager that I worked for.
Q And it's your testimony they told you to work here you have to wear something in the AAA Style Guide? 10:38:51
A Not in so many words, but yes.
Q Okay. When you say "not in so many words," what do you mean?
A I mean that if I did not wear those clothes, I would not be working. 10:39:03

Q -- at Third Street, right?
A Yeah.
Q Okay. Was he a manager in the store for your remaining time at Third Street that you can remember or did he leave at some point? 10:44:13
A He left at some point.
Q Okay. Do you recall how long he was there for?
A I don't. Sorry.
Q Okay. Well, aside from Bert Quinn, did anybody ever say anything to you about the clothes you were wearing to work? 10:44:24
A Yes.
Q Okay. Who?
A Uhm, many managers, but I can name one specifically being Keegan Ewing. 10:44:35
Q At Third Street?
A Yes.
Q Okay. What did Keegan say?
A I was wearing jeans that were not from Abercrombie, and she told me that I would either have to go home or change them. 10:44:47
Q What jeans were you wearing?
A Uhm, just different navy jeans from some other store.
Q Okay. But sitting here today, you can't 10:44:59

remember where they were from?
A Macy's®.
Q What brand were they?
A Uhm... Levi's® or Calvin Klein®. I'm -- I'm not sure. I have two pairs. 10:45:14
Q Do you know if they had a logo on them, a visible logo?
A No.
Q Did they have a patch on them that said a different brand? 10:45:25
A No.
Q No?
A No, they did not.
Q Don't Levi's® typically have patches on them?
MR. JAMES: Objection. Calls for speculation. 10:45:35
THE WITNESS: I'm not sure.
BY MR. GARCIA:
Q Don't the Levi's® that you own have a patch across the back that -- a typical Levi patch?
A No, they don't. 10:45:42
Q They don't?
A No.
Q So what did you do in response to what Keegan told you?
A I changed into my Abercrombie jeans. 10:45:47

Q You had them with you?
A Yes.
Q In like a backpack or something?
A In a backpack, yes.
Q Did you tell her you had them with you? 10:46:03
A After she said, "You have to go home," and I said, "Well, I have them in my bag. I'll just change."
Q Why did you have them in your bag?
A Because I was wearing them earlier on, changed at my break, and then came back because they are 10:46:30 extremely uncomfortable.
Q You were wearing your Abercrombie jeans during that particular work shift and changed during your break --
A Yes. 10:46:44
Q -- into different jeans?
A Yes.
Q Did Ms. Ewing say anything else to you that you can recall?
A I don't recall. 10:47:18
Q Okay. Other than Mr. Quinn and this one time with Keegan Ewing, can you recall any other situation like that that you were involved in?
A I was wearing the incorrect shoes according to the AAA policy. Uhm, and I believe it was Eni Deharo 10:47:42

that told me I had to change into a other pair.

Q What were you wearing?

A I was wearing some plum soles. I believe they are Toms®.

Q Do you know what color they were? 10:48:07

A They were gray.

Q When did this happen?

A At some point during my employment at Third Street. I can't remember specifically.

Q You don't remember specifically when? 10:48:22

A No.

Q And have you told me everything you can recall about what Mr. Deharo supposedly told you?

A She just told me to change my shoes into the -- the acceptable ones. 10:48:35

Q What were acceptable in your view?

A In my view? Or in the store's uniform policy?

Q There's no such thing as the uniform policy, is there? I have a -- I have a stack of documents here today. Am I going to see anything that says "Uniform Policy" or am I going to see something that says "Look Policy"? 10:48:51

MR. JAMES: Objection. You are not here to testify, and you can't testify to what you are or are not going to see. You can ask a clear question, and 10:49:02

I'll remind you, please, be courteous.

BY MR. GARCIA:

Q I understand you've been coached to say "uniform" as many times as you can today --

MR. JAMES: Objection. You understand no such thing, and that's inappropriate. 10:49:12

BY MR. GARCIA:

Q All right. So was it the look policy? Is that what you are talking about?

A You can call it whatever you like, but if you are going to equate the two, then yes, the look policy. 10:49:19

Q Okay. In fact, you've never seen anything called "uniform policy," have you?

MR. JAMES: Objection. Misstates his testimony. Asked and answered. 10:49:29

THE WITNESS: I don't remember.

BY MR. GARCIA:

Q Okay. But you have seen something called a look policy, right?

A Sure. Yes. 10:49:34

Q Well, we'll look at it, but what shoes -- what footwear do you understand to have been compliant with the look policy?

A It was either Abercrombie flip-flops, leather ones for men or low-top Converse® All Stars. 10:49:51

Q Vans®?
A Not at Abercrombie.
Q Rubber flip-flops?
A I believe girls could wear them, but not guys.
Q Okay. We talked about one time that Mr. Quinn spoke to you about clothing, one time that Ms. Keegan -- Keegan Ewing did, and one time that Eni Deharo did, right? 10:50:09
A Yes.
Q Anything else? 10:50:54
A There was another time, I don't remember specifically which manager it was, but I was wearing AAAs from the previous season that were no longer allowed to be worn.
Q What were you wearing? 10:51:10
A I think they were red shorts.
Q Okay. Do you remember, was it at Third Street?
A Yes.
Q Okay. What happened?
A They told me to wear -- wear clothes in compliance with the new AAAs. 10:51:29
Q Were you told to change or to go home?
A Not at that particular one, but I was told not to come back until I did after that shift.
Q And you don't know who told you that? 10:51:46

rolling or unrolling pants or shirts, no, correct?
A That is correct.
Q All right. All right. You told me earlier -- I said we would get to your impression, so now we're here. 10:54:27
So you told me earlier that it was your impression that you had to wear certain clothes, correct?
A Yes.
Q Okay. Now, what was it in your mind that gave you that impression? 10:54:33
A The many times that we were told to buy the AAAs.
Q Okay. You've told me about two.
A Uhm, we were told to buy the AAAs every season. 10:54:59
Q Okay. How were you told? What was -- what was said or communicated to you?
A As soon as the new AAA handbook or book would come out, they would tell us, they would say that you need these to work. And that, you know, they pushed them on us pretty heavily for the two or three weeks, whenever the transition period was. 10:55:28
Q All right. I asked you earlier whether sitting here today you can recall anybody specifically telling you that you needed to buy certain clothes or wear 10:55:49

testimony.

THE WITNESS: Am I allowed to answer?

BY MR. GARCIA:

Q Yeah.

MR. JAMES: Yeah. 10:56:54

THE WITNESS: Okay, okay. I -- I don't recall them saying specifically, You must buy these clothes.

BY MR. GARCIA:

Q Okay. I'm with you.

A Okay. 10:57:02

Q What you are telling me is that during your employment, when the new AAA Style Guides would come out, you would be -- what would be the right word, encouraged by your managers to buy clothes in the guide?

MR. JAMES: Objection. Misstates his testimony. 10:57:17

MR. GARCIA: I'm asking him a question. I'm not...

THE WITNESS: Uhm, I would say highly encouraged to purchase the new AAAs with the threat of not being able to work otherwise. 10:57:27

BY MR. GARCIA:

Q What do you mean by, "with the threat of not being able to work otherwise"?

A Well, in any, you know, month, you would see a 10:57:43

few people sent home for not wearing certain types of clothing that were Abercrombie clothing. So, essentially, if people were coming in with different pairs of jeans or shoes or shirts, they would be sent home. 10:58:02

Q Is it your testimony that during the entirety of your employment, you never saw anybody wear non-Abercrombie or Hollister clothes to work?

A I saw a few people wear the clothes that did not comply with the AAAs that were either not Abercrombie or not the correct shoes -- 10:58:16

Q Okay.

A -- or Hollister.

Q And did you see those people working without being reprimanded? 10:58:25

A For a while until a manager saw them.

Q Okay. So it's your testimony that each and every time you saw somebody wear non-company clothing to work, that they were eventually counseled by a manager?

A Yes. They were talked to by the manager. 10:58:45

Q Is that at each and every one of your stores or just at Third Street?

A I only started noticing it at Third Street.

Q Okay. So you don't know -- well, you know that at Century City, Newpark and at the Milpitas store -- 10:59:01

each shift?

A Yeah, but sometimes they don't give you the 5-minute meeting.

Q Okay. Well, more often than not, you have the 5-minute meeting, right? 11:01:51

A More than 50 percent of the time.

Q Okay. And the managers would -- are the ones that give the 5-minute meetings, right?

A That's correct.

Q Okay. Would it be fair to say that those 11:01:59 folks, to the extent that that happened, okay, just had a different experience than you did in the store?

MR. JAMES: Objection. It's a hypothetical. It's vague and ambiguous. It calls for speculation.

THE WITNESS: I believe that they were just 11:02:22 better than me at hiding from the managers when they weren't wearing clothing not in compliance with the AAA policy.

BY MR. GARCIA:

Q Okay. Well, in your experience, are the 11:02:31 managers in the stores the one responsible for enforcing the look policy in the store?

A Yes.

Q Over the course of your time with the company, did you find that managers varied in terms of how they 11:02:49

enforced the look policy?

A No.

Q No?

Every single person was exactly the same in your experience? 11:02:59

A Yeah. They put the look policy very high on the list of priorities.

Q Well, you don't know how managers enforced the policy on shifts you weren't working, right?

A No, I don't. 11:03:17

Q And you are just assuming with respect to other folks, to the extent that they wore non-company clothing to work without incident, that they hid from managers, right?

MR. JAMES: Objection. Vague and ambiguous. 11:03:30 Misstates his testimony. Calls for speculation.

THE WITNESS: I'm assuming, if it was true, that they had done that, then, yes, because -- in fact, to go back and answer your previous question a bit bitter, I do know of people that were sent home for not 11:03:47 wearing correct clothing when I was not working.

BY MR. GARCIA:

Q Okay. Who are all the people that you know were sent home for not wearing, in your words, correct clothing? 11:04:00

A Yes.
Q Did you own any cardigan-style sweaters?
A Uhm... no, I don't think so.
Q Just more standard V neck or crew neck type sweaters? 11:23:19
A Yeah.
Q All right. Let's shift gears briefly.
You've asserted a claim in this case regarding rest breaks. Are you aware of that?
A Yes. 11:23:50
Q What is the nature of your claim regarding rest breaks?
A Uhm, that we aren't receiving -- or, sorry. That employees at Abercrombie aren't receiving the required rest breaks under California law. 11:24:01
Q Okay. What are required rest breaks under California law?
MR. JAMES: Objection. Calls for legal conclusion.
THE WITNESS: Uhm, from what I remember, it's 11:24:09 -- you get a 10-minute paid rest break, up to 4 hours, up to 5 hours; and above 5 hours, you get a 30-minute unpaid meal break and then another 10-minute paid rest break.
BY MR. GARCIA: 11:24:24

Q And that's your understanding of what California law is?
A Yeah.
Q Did you ever receive a rest break while you were working at Abercrombie? 11:24:33
A Yes.
Q Did you ever receive two rest breaks in a given shift?
A Only during my last few weeks of working, once I realized that Abercrombie was, in fact, breaking the law when it came to rest breaks. And I told the managers about it. And against their protest, I took the break anyway. 11:24:45
Q Did you receive rest breaks while you were working at the Milpitas store? 11:25:09
A Yes.
Q At the -- where's my notes -- Newpark store?
A Yes.
Q Century City Hollister?
A Yes. 11:25:23
Q And Third Street Promenade?
A Yes.
Q You would agree with me that most of your shifts were less than 4 hours, correct?
A Yes, or were 4 hours. 11:25:37

Q Yeah. Any -- any shifts --
A Yeah, yeah.
Q -- up to six hours --
A Yeah.
Q -- you would receive a rest break? 11:31:56
MR. JAMES: Objection. Misstates --
THE WITNESS: Not any shift. Only 4-hour shifts. If it was 5 or 6 hours, I would not receive the 10-minute rest break.
BY MR. GARCIA: 11:32:06
Q You wouldn't get any rest break?
A I would get the lunch break, but not the rest break.
Q The 30-minute meal break, you mean?
A Yes. 11:32:12
Q I think I understand what you are saying. So, your testimony is that got the rest break for shifts 4 hours and less?
A Uhm-hum.
Q Yes? 11:32:22
A Yes.
Q You are saying that to the extent that you worked a shift greater than 4 hours --
A Yes.
Q -- you didn't get any rest break? 11:32:33

A No.
Q Did I say that right?
A Yeah. I did not get a rest break above 4-hour shifts.
Q So just so I understand, just stay with me on this, all right -- 11:32:45
A Yeah, yeah.
Q -- so we have a clear record. Say you had a shift that you came in at 1 o'clock in the afternoon --
A Uhm-hum. 11:33:17
Q -- until 7 o'clock at night, all right?
A Uhm-hum.
Q Okay. Are you with me?
A Yeah.
Q So 6-hour shift. 11:33:22
A Yeah.
Q Is it your testimony that you got zero rest breaks during that entire time or did you get a rest break sometime between, you know, 1:00 and 5:00?
A I got no rest breaks -- 11:33:34
Q All right.
A -- during that entire time.
Q Can you recall a shift greater than 4 hours where you asked for a rest break and were told no?
A Yes. 11:34:07

A But the answer is implied in my answer. So, no, it did not happen.
Q Your only job here today is to answer my questions.
A Yes. 11:35:48
Q All right. You will have plenty of time to tell whatever story you want to tell when your lawyer is talking to you, but today, I get to ask the questions and you get to answer --
A Yeah. 11:35:56
Q -- those questions?
A And I'm answering them.
Q All right. So you don't recall, sitting here today, any such instances at Milpitas, Century City, or Newpark, correct? 11:36:07
A I do not recall.
Q Okay. So your testimony is then, at Third Street, with respect to shifts greater than 4 hours, that you still took your break?
A This only happened once or twice in the last few weeks that I worked. 11:36:34
Q Okay. Tell me what happened on those occasions.
A I went to a manager. I would point them to the law on the corkboard, and I would say, "This is, you 11:36:49

know, I should be able to take my break, I should be able to take a 10-minute paid rest break."

And they would say, "Well, that's not our policy."

And we -- I would say, "Well, I'm going to take one anyway at some point," and then I would tell them, "I'm going to go take my break now." 11:37:02

Q Okay. And did anything happen after that?

A No.

Q You weren't reprimanded in any way? 11:37:14

A They weren't happy with me, but.

Q Were you written up?

A I don't know. I haven't -- I've been told that I have been written up without me knowing about being written up. So I could not tell you. 11:37:26

Q So you don't know?

A I don't know.

Q You were never specifically counseled by a manager about taking a break in those situations, correct? 11:37:39

A No.

Q Correct?

A Correct, yes.

Q Okay. Now you said you took them over to the policy on the wall? 11:37:47

A Uhm, yes.
Q Okay. This is the Abercrombie & Fitch® Store Associate Handbook. That's -- you will see was revised 6 of '11 down in the lower, right-hand corner.
Do you see that? 11:55:28
A Yeah.
Q Okay. So this would have been the handbook in place when you started back at Milpitas in October of '11?
A Yeah. 11:55:38
Q Okay. Now, let's flip through the handbook a minute. If you turn to page 3, there's a paragraph there on the bottom of the page -- or not the bottom of the page, but the last paragraph on the page.
A Yeah. 11:56:14
Q About three lines down, it says (as read):
"Because each associate is responsible for complying with the policies described in the handbook, it is important that you ask questions if you have them." 11:56:24
Do you see that?
A Yes.
Q Okay. And throughout the course of your employment, did you ever ask any questions regarding either the look policy or the rest break policy -- 11:56:34

A Yes.
Q -- that you can remember?
Okay. Which policy did you ask questions about?
A Uhm, I distinctly remember the break policy. 11:56:42
Q Okay. Did you ask any questions about the look policy that you can recall, sitting here today?
A No, not that I can recall.
Q And the question that you asked or questions that you asked about the break policy were what? 11:56:57
A Why the breaks that we're given don't comply with the ones in the law.
Q And this was a question that you asked towards the end of your employment --
A Yes. 11:57:13
Q -- at Third Street?
A Yes.
Q And do you know who you asked?
A I don't recall.
Q Were you aware, during your employment, about the one number? Did you see that posted? 11:57:20
A Yes.
Q And you understood that was a line to company's HR department you could call with any issues?
A Yes. 11:57:35

Q "Ten minutes," right?
A Yep.
Q It says: "Shift length required, every 4 hours worked," with an asterisk.
Do you see that? 12:03:23
A Yeah.
Q And it says the break is not required if the associate works less than 3.5 hours.
Do you see that?
A I do see that. 12:03:29
Q And this was consistent with your experience, right?
MR. JAMES: Objection. Misstates his testimony.
THE WITNESS: No, it was not. 12:03:36
BY MR. GARCIA:
Q Okay. How was it not?
A We would get the 10-minute rest break for 4-hour shifts. However, if they were 5 hours or longer, we would only receive the 30-minute meal period. 12:03:48
Q Okay. What about between 4 and 5 hours, do you recall any situations?
A Uhm, I never had a shift that was between 4 and 5 hours.
Q All right. Flip the page over, please. 12:04:00

house, is how it was described to me.

Q Have you heard the term "classic" ever applied to Abercrombie & Fitch® brand?

A I don't know.

Q Okay. I take it you can't tell me anything about the Gilly Hicks brand or style, correct? 12:09:45

A Yeah. I'm not familiar with it.

Q Okay. Same thing with Abercrombie Kids®?

A Uhm, yeah. I don't know.

Q And I just want to be clear, did you ever come into work and -- well, strike that. 12:09:58

Did you ever ask a manager whether a particular item of clothing at either any of the Hollister, Abercrombie & Fitch® stores that you worked in would be consistent with the look policy? 12:10:35

A Yes, I did.

Q Okay. What did you ask about?

A When I was coming from Hollister, I was told to buy Abercrombie jeans. I asked if I could wear my Hollister jeans, and they said no. 12:10:46

Q Any other questions that you asked?

A Not that I can remember.

MR. GARCIA: Okay. I guess we might as well break for lunch.

MR. JAMES: Okay. 12:11:09

buy the AAA and being checked by managers to make sure that your clothing was appropriately styled for work?

A Uhm, not that I can recall at the moment.

Q So I just want to be clear. Is it your testimony that at Third Street Promenade, based on your experience, it would not have been okay for you to wear clothing purchased at some other store, some other store, not an Abercrombie store? 13:17:53

A No. I would not have been able to wear that.

Q Stay with me, okay. 13:18:13

Is it your testimony that you would not be permitted by your managers at Third Street Promenade to wear clothing purchased at another store, but that was similar to the Abercrombie & Fitch® brand?

MR. JAMES: I'm sorry. Can you read back that question? 13:18:32

BY MR. GARCIA:

Q Is it your testimony that you would you not be permitted by your managers at Third Street Promenade to wear clothing purchased at another store, but that was similar to the Abercrombie & Fitch® brand of clothing? 13:18:43

A I would not be allowed to wear that.

Q Okay. Did anybody specifically tell you that you would not be allowed to do that?

A Not verbally, but through their actions. 13:19:03

Q Okay. Just to be clear for the record, it's true that nobody ever specifically spoke words to you to that effect, correct?

A Well, not that I know of. Not that I can remember. 13:19:23

Q Okay. Now, you say by their actions.

What are you referring to?

A Uhm, sending other people home for various uniform violations, being essentially fired for not buying the new AAAs, and the fact that I was not allowed 13:19:41 to wear AAAs from the season before, which would obviously, you know, fall under these guidelines very well.

Q Did you feel that those instances in which you had these communications with Mr. -- 13:20:00

A Bert Quinn.

Q -- Mr. Quinn or the -- the time that you had the red shorts on, did you believe that those were contrary to the look policy; that the position that those people were taking were contrary to what the look 13:20:17 policy said?

MR. JAMES: Objection. Vague and ambiguous. Also assumes facts.

THE WITNESS: Uhm... I'm not sure what you are asking. So, are you saying that it goes against what's 13:20:30

offer AAA purchase several times a year."
Do you see that?
A Yes.
Q And I just really want to be clear.
Was your experience consistent with that sentence as it's written or not consistent? 13:25:58
A Uhm, yes. It was consistent.
Q And in your experience, were the clothing that were -- the clothing items that were eligible for the AAA discount were featured in the AAA Style Guides? 13:26:58
A Yes.
Q And I asked you earlier whether anybody ever specifically told you that you had to buy clothing featured in the AAA Style Guide, and you told me no, but you felt you were highly encouraged to do so, correct? 13:27:22
A Yes.
Q I want to just drill down on that encouragement, okay?
A Uhm-hum.
Q Are you with me? 13:27:41
A Yes.
Q Sitting here today, can you tell me anything specifically that anybody said to, in your mind, encourage you to purchase something in the AAA Style Guide? 13:27:53

A When the new AAAs came out, I don't know what the transition period is, length of time, but for the first few days, they have the style guide booklet. They give it to you and say, "Oh, you know, you should look at this, find the trends you like." And then eventually they would say, "Yeah, you need to get your AAAs. You need to get your AAAs." 13:28:09
Q And sitting here today, you're testifying -- it's your testimony that those words were actually used, "You need to get your AAAs"? 13:28:24
A If not those exactly, very close to those words.
Q Okay. Well, sitting here today, are you able to say definitively those words were used?
A Not those words exactly. 13:28:33
Q Okay. Can you -- can you recall any words that were actually used beyond, "Here's the AAA. You should take a look"?
A Yeah. They pushed them on you in a manner equivalent to "You need to buy these." I can't remember specific wording from any specific person. 13:28:50
Q Okay. And did -- well, did anybody say what would happen if you didn't?
A They didn't say what would happen, but you would see what would happen. 13:29:09

Q Okay. What do you mean?
A People being sent home.
Q I just don't want to keep asking the same question. So we just take it one question at a time, all right? 13:29:20
A Uhm-hum.
Q Let's break it down. I said, well, did anybody say what, if anything, would happen if you elected not to purchase clothes in the AAA, and your answer is no, right? 13:29:39
A No. That is my answer, yes.
Q Okay. And then to be fair, you said -- you continued on, and you said that you would see what would happen or something like that. I can't see it on my screen. 13:29:54
A Yeah.
Q Okay. And what is your testimony in that regard?
A That, for example, people would be sent home. I would be fired. Uhm, things generally, like, that 13:30:05 push you in the direction of purchasing clothes.
Q And in terms of the people being sent home, sitting here today, do you know whether anybody was sent home simply because they wore something that was not in a AAA Style Guide or for some other reason that their 13:30:27

clothing was at issue?

A It wasn't in the AAA Style Guide.

Q Okay. How do you know that that's what was at issue every time you became aware of the issue?

A The one specific time that I'm thinking of right now, that relates to Arik Silva, was because he was not following the AAA Style Guide. 13:30:42

Q Beyond the one specific time regarding your co-plaintiff, Mr. Silva, are you aware of any other instances in which you know from your own personal knowledge that somebody was sent home for not wearing AAA clothing? 13:30:59

A Yes.

Q Okay. Who and when?

A I can't remember their names, and I don't remember specific dates. 13:31:11

Q Do you remember what store?

A It was the Third Street Promenade.

Q Do you know what they were wearing?

A I don't know what they were wearing. 13:31:19

Q How do you know it was because of a AAA issue?

A Because that's what I was told.

Q By?

A Various people, including managers.

Q What were you told specifically? 13:31:28

contained in this style guide at any time at or around May 19, 2012, forward, correct?

A Uhm, no, because I already had clothes that were in compliance.

Q So it's not the case that you had to buy clothes five times a year, correct? 15:54:47

A I had to buy clothes every time that a AAA Style Guide came out. If it was five times a year, then it was five times a year.

Q All right. Well, you didn't have to buy anything when the -- this one came out in May of 2012, right? 15:55:29

A Because I already bought the clothes. I already owned them.

Q Okay. 15:55:38

A You don't need to buy them twice, but you have to buy them once.

Q So, accepting your testimony then, if you bought a pair of jeans that were featured in style guides for a year, you'd never have to buy another pair of jeans again, right? 15:55:59

MR. JAMES: Objection. Hypothetical.

THE WITNESS: If they were -- happen to be the same ones over and over again, then I would not need to.

BY MR. GARCIA: 15:56:12

A Okay, but he's still wearing one.
Q Well, you told me you have to dress exactly like the models are shown?
A We were highly encouraged to dress like this, but we could purchase these and still be able to work. 16:01:33
Q Okay. So you didn't have to look exactly like the models on the first couple of pages?
A We were highly encouraged to, but we had to purchase these in order to work.
Q Answer my question. Answer my question. 16:01:42
A I'm answering your question.
Q It's true, is it not, that you did not have to dress exactly the same as the models listed on the first couple of pages on each style guide?
A That is true. 16:01:54
Q Okay. So now you are saying you could wear any of the clothing featured on the page that lays out all of the clothing that's getting the AAA discount?
MR. JAMES: Can you give me a Bates number on that? 16:02:12
MR. GARCIA: 25224.
MR. JAMES: Okay.
THE WITNESS: Uhm... there were specific combinations that we had to wear. I can't remember what they were exactly, but it went along the lines of what 16:02:25

Q Let's talk about clothes.
Are you able to provide any testimony from your own personal knowledge regarding clothes that females were allowed to wear to work?
A It was just similar to the males, where it had to fit with the AAA Style Guide for that season. 16:06:15
Q Okay. But do you have any personal knowledge as to how that was implemented and practiced?
A By telling them they had to wear the AAA Style Guide clothes. 16:06:34
Q Well, are you -- were you -- are you able to at any point in time in your career at Abercrombie identify the number of combinations available to female associates to wear to work?
A No. I did not look at them. 16:06:40
Q Have you ever seen a female associate at any other retailer wearing shorts to work?
A I'm sure that I have.
Q How about jeans?
A I'm sure that I have. 16:07:11
Q How about wovens?
A What is a woven?
Q Shirt, button-down shirt?
A I'm sure that I have.
Q How about a dress? 16:07:22

A No, I do not.
Q Numerous, right?
A Numerous, yes.
Q Including T-shirts, right?
A Only if they were worn underneath button-up shirts. 16:33:54
Q Button-down shirts in a number of different colors and designs, right?
A Yes.
Q Sweaters, right? 16:34:07
A Yes.
Q Sweatshirts?
A Yes.
Q And multiple types of jean styles, right?
A Yes, all from Abercrombie. 16:34:16
Q And when you looked at this style guide, had you read it, you would have seen the language there on all of the pages throughout the guide, saving the first page, stating that you were not required to purchase or wear any of the company's clothing, right? 16:34:44
A On paper, that is what it says, but in practice, that's not the policy.
Q What part of my question was not responsive to you? Because I just asked you specifically --
A The whole thing. 16:34:56

A No, that's not what I bought. I bought a shirt.
Q A button-down?
A A button-down shirt, yes.
Q All right. Do you see anything on the second page? 16:38:09
A Uhm, it could have been the second one, but as I said, I can't remember specifically.
Q What about on page 25329?
A Yes. I bought the Cliff Mountain Tee, which is the one at the top. 16:38:30
Q The sweater?
A Yes. And you had to wear that underneath a shirt as well. So I also bought a shirt.
Q Do you see the shirt pictured? 16:38:46
A I can't remember what it looks like, as I said. These all are very similar.
Q At the time you purchased that item, can we agree you had numerous clothing options available to you to wear to work? 16:39:11
A Uhm, yes, but they are all from Abercrombie.
Q All right. Well, we can agree that the written policy says different on the document, right?
A The written policy is one thing, and the --
Q We can agree that the written policy says 16:39:26

different than what you just said, right?
MR. JAMES: Objection. Vague and ambiguous.
THE WITNESS: On the document, the written policy is different than what it is in reality.
BY MR. GARCIA: 16:39:38
Q Okay. At your store?
A At every store I worked at.
Q At what?
A At every store I worked at.
Q The four stores that you worked in? 16:39:46
A Yes.
Q During the time you worked at Abercrombie, at Third Street, you don't know what was happening with respect to the look policy at any other store in the company, right? 16:40:14
A I could not be 100 percent sure, no.
Q Well, could -- do you know or not?
A I could not be a hundred percent sure, no.
Q Well then, what knowledge do you have then?
A The implied knowledge from the way that I 16:40:28 worked -- how I worked from the four other stores.
Q Okay. Beyond assumption, do you have any personal knowledge as to how the look policy was being implemented or enforced at any other store at any time during your employment other than the specific store in 16:40:47

which you were working in at the time?
A I could not be a hundred percent sure, no.
Q So under your view of the world, when you were looking through this look policy document, you could wear jeans to work, right? 16:41:15
A Yes, Abercrombie jeans.
Q Sweaters?
A Abercrombie sweaters, yes.
Q Sweatshirts?
A Abercrombie sweatshirts. 16:41:23
Q Button-down shirts?
A Abercrombie button-down shirts, yes.
Q Henleys?
A Only underneath an Abercrombie button-down shirt. 16:41:33
Q And do you know whether, sitting here today, you could wear any of those clothing items to work at any other retailer?
A I have no idea.
Q But again, you would assume so with respect to jeans, sweaters, button-downs? 16:42:03
A I have no idea.
Q Didn't you tell me you would believe -- you would be able to wear those to work at some other retailer? 16:42:17

MR. JAMES: Also broad.
BY MR. GARCIA:
Q You can answer my question.
A Oh. I don't know.
Q So after reviewing all these style guides, just to summarize your testimony, it's your testimony from the time you started working in 2011 until April of 2013, that you were strongly encouraged to purchase items reflected in the various style guides, right? 17:14:32
MR. JAMES: Objection. Misstates his testimony. 17:16:10
BY MR. GARCIA:
Q Yes?
A Yes.
Q All right. 17:16:15
A With the consequence of not being able to work or being sent home, if not.
Q Well, you were never actually sent home, right?
A No, because I always had my things in my bag.
Q After April 2013 -- strike that. 17:16:30
Beginning in April of 2013, it's your testimony that you were told that you were free to wear any clothing in the store?
A Free to wear any clothing from Abercrombie in the store. 17:16:57

Q You don't know whether any of the clothing featured in any of the style guides that you reviewed over the course of your employment or after April 2013, any of the clothing contained in the store could be worn to work at another retailer, correct? 17:17:19

A I do not know.

Q And you concede that in each of the style guides that we reviewed and in the store, in general, there were numerous different clothing options and designs? 17:17:44

A Yes.

Q And setting aside your testimony that you were strongly encouraged to wear AAA clothing in general, prior to 2000 -- April of 2013, and then store clothing after April of 2013, nobody ever pointed to a specific 17:18:14 outfit or clothing item and said you have to wear this particular outfit or clothing item, correct?

MR. JAMES: Objection. Misstates his testimony. Can you repeat the question?

THE WITNESS: Yeah. Can you repeat the 17:18:37 question?

BY MR. GARCIA:

Q Throughout the course of your employment, nobody ever told you that you needed to wear any specific clothing item or any specific outfit, correct? 17:18:50

MR. JAMES: Objection. Misstates his testimony.

THE WITNESS: They told me I had to wear a clothing item or clothing items from the style guide. 17:19:06

BY MR. GARCIA:

Q I understand your testimony that you were strongly encouraged to do that. My question is a little bit different.

It is, were you ever told -- well, the fact is you were never told, correct, that you had to wear a specific outfit, that is a particular shirt and a particular pair of pants, correct? 17:19:17

MR. JAMES: Objection. Misstates his testimony. Asked and answered about a dozen times.

THE WITNESS: I was told that I had to wear Abercrombie jeans, which is a particular pair of pants, unless they weren't on the style guide. As for the shirts, I was told I had to wear a particular shirt across a range of shirts that were available in the style guide. 17:19:34 17:19:52

BY MR. GARCIA:

Q Right. My point is, even under your view of the world, nobody picked out any particular item of clothing and said, "You have to wear this particular item of clothing," correct? 17:20:02

Q Is that your text?
A No. That's from Chamali.
Q Well, I mean is this from your phone?
A Oh, yes.
Q What is a planner photo? 17:40:00
A Every season, they took photos of -- where you had to wear the Abercrombie AAA clothing in a specific style, and I don't know what they did with them. They just told us they had to take photos.
Q And all you did was show up for a photo? 17:40:22
A Yeah.
Q Were there people in the store that were not included in any type of photo?
A Yeah.
Q So they would pick the people they would want? 17:40:31
A Yeah.
Q Do you know how many people were in the photo approximately?
A 10, maybe.
Q Well, there's certainly a lot more than 10 people on staff -- 17:40:39
A Yes.
Q -- at Third Street, right?
And then it continues on and says:
"It would only take an hour, and you 17:40:54

Q Can you tell me -- let's just say labor law printout. Can you tell me if, when you saw this federal or state labor law printout, any Abercrombie manager ever indicated that that printout was Abercrombie policy? 18:21:17

A No, they did not.

Q Okay. Can you tell me whether that printout purported to be Abercrombie policy?

A No, it did not.

Q Okay. Can you tell me whether a manager ever specifically denied that that was Abercrombie policy? 18:21:23

A Yes.

Q Okay. During the course -- strike that.

Can you tell me whether, during the course of your employment at Abercrombie, you ever witnessed another store employee take a 10-minute rest break during a shift that lasted 5 hours or more? 18:21:42

A No.

Q Okay. You can't tell me or you never saw it?

A Oh, I never saw that. 18:21:56

Q Have you ever heard of such a thing?

A No, I haven't.

Q Okay. Can you tell me when seeing this posted federal or state labor printout was the initial impetus for you contacting an attorney? 18:22:36

MR. GARCIA: Do you mean -- do you mean -- are you including in that period of time after he saw the document on the corkboard and informed the managers that he was going to be taking addition the breaks?

BY MR. JAMES: 18:23:56

Q Excluding the two to three, one to two, three breaks you said you took during your employment?

A Excluding those, no, it did not.

Q Okay. Actually, I... can you tell me whether it was, uhm -- strike that. 18:24:10

On these two, one to three instances when you were able to take a 10-minute rest break for a shift of over 10 minutes, were you authorized by Abercrombie to do so?

MR. GARCIA: Objection. Leading. 18:24:24

BY MR. JAMES:

Q You can answer.

MR. GARCIA: Lack of foundation.

THE WITNESS: No, I was not authorized to do so. 18:24:31

BY MR. JAMES:

Q Okay. And can you me whether you took those rest breaks over the protest of Abercrombie managers?

A Yes, I did.

Q Can you tell me whether any document entered as 18:24:37

an exhibit today, which contained language to the effect of employees are not required to buy Abercrombie clothes, comported with your experience in any store, any Abercrombie store in which you ever worked?

A No, it did not. 18:25:02

Q Okay. Can you tell me whether you ever met an Abercrombie employee who has told you that they didn't buy Abercrombie clothing?

A Yes, but they weren't allowed to work.

Q I see. Okay. Let me ask it this way. 18:25:18

Are you aware of any instances -- strike that.

Have you ever observed a Abercrombie employee coming to work with -- in non-Abercrombie clothing and being allowed to proceed with his shift without comment from a manager? 18:25:36

A No, I have not.

Q Okay. How many instances have you seen a Abercrombie employee come to work in non-Abercrombie clothes?

A Uhm, one to three. 18:25:47

Q Okay.

A Maybe.

Q Okay. Do you recall the first incident?

A Uhm, I believe it was Arik with his shoes.

Q Okay. What kind of shoes was he wearing? 18:25:59

A Okay.

Q Can you tell me whether, uhm, the rest break policy purportedly contained in Exhibit 27 was ever practiced at any of the Abercrombie stores in which you worked? 18:34:42

A It was not.

MR. JAMES: Okay. Okay. That's all I have.

CONTINUED EXAMINATION 18:34:43

BY MR. GARCIA:

Q All right. You knew throughout the course of your employment that handbooks were available in the stores should you wish to review them, right? 18:34:56

A Yes.

Q Okay. In terms of rest breaks, at some point, at Third Street Promenade, you saw a document on the associate corkboard, right?

A Yes. 18:35:10

Q And you believed that that document reflected a rest break policy or requirement different from what you were experiencing in the store at the time, right?

A Yes, the California Labor Law.

Q Okay. And the first time that you spoke to 18:35:23

anybody about that, other than a lawyer, in the store was when you went up to the manager and said, "You are not doing it right. I am going to take my additional breaks that I'm entitled to," right?

A No. I asked about it. 18:35:38

Q Okay. What do you recall asking?

A If this is, in fact, the rest break policy.

Q Okay. And what were you told?

A "No."

Q And then what did you do? 18:35:48

A And I texted Kavon Mason and Justin. I can't remember his last name.

Q All right.

A And talked to them about it, and I asked them if it was the same at various stores, and they gave me various answers. 18:36:01

Q All right. Well, regardless, at some point, you decided that you were going to take an additional rest break --

A Yes. 18:36:12

Q -- as that document told you you could, right?

A Yes.

Q And you did, in fact, do that, right?

A Yes.

Q And you told me earlier that you were never 18:36:17